

REMARKS

Claims 30-33, 35-39, 41-45, 47-58, 60-97, 100 and 103-106 are now pending in this application.

Rejections Under 35 U.S.C. § 112

Claims 64, 98 and 99 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement for recitation of the terms "inferior vena cava" and "superior vena cava." While the Applicant respectfully submits that implicit support exists for both the superior vena cava and the inferior vena cava, the Applicant has cancelled claims 98 and 99 and amended claim 64 such that it now recites simply "vena cava" without specifying inferior or superior in order to expedite allowance. Support for "vena cava" can be found at line 5 of page 19 of the application.

Claims 30-106 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for reciting a second piercing in "the portion of the second tissue flap overlapping the first tissue flap" in the second paragraph of the claim. The Applicant has amended claim 30 so as only to recite "the portion of the second tissue flap" in the second paragraph, and this clearly refers back to the same "portion of the second tissue flap" recited in the first paragraph of the claim.

Indication of Allowable Subject Matter

The Applicant thanks the Examiner for the indication of allowable subject matter in claim 59. The Applicant has amended claim 30 to recite the limitations of claim 59 and intervening claim 46. Accordingly, as the Applicant has already addressed the rejections under 35 U.S.C. § 112 above, the Applicant respectfully submits that claim 30 and all claims dependent therefrom are in condition for allowance.

Rejections Under 35 U.S.C. § 102 and 103 of Previously Pending Claims 30-58 and 60-106

In light of the indication of allowable subject matter in claim 59 (the limitations of which have since been introduced into amended claim 30), all of the currently pending claims are presently in condition for allowance. Although the Applicant respectfully disagrees with the rejections set

forth in the office action (including the combinations of references in support thereof, as well as the refusal to examine the limitations of claims 45, 54-58 and 84), those rejections have been rendered moot by the amendments to claim 30 and therefore will not be addressed herein.


Conclusion

Prompt and favorable action on the merits of the claims is earnestly solicited. Should the Examiner have any questions or comments, the undersigned can be reached at (949) 567-6700. The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: March 26, 2010

By:   
Mark Stirrat  
Reg. No. 50,756

ORRICK, HERRINGTON & SUTCLIFFE LLP  
4 Park Plaza, Suite 1600  
Irvine, CA 92614  
949/567-6700 Telephone  
949/567-6710 Facsimile